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Sunset Reviews  
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AD/CVD Operations  
Office 6/MD

MEMORANDUM TO: Joseph A. Spetrini  
Acting Assistant Secretary  
for Import Administration

FROM: Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Final Results of  
Expedited ("Sunset") Reviews of the Antidumping Duty Orders on  
Welded ASTM A-312 Stainless Steel Pipe from South Korea and  
Taiwan

SUMMARY:

We have analyzed the substantive responses of the interested parties in the second sunset reviews of the antidumping duty orders on welded ASTM A-312 stainless steel pipe ("WSSP") from South Korea ("Korea") and Taiwan. We recommend that you approve the positions we developed in the Discussion of the Issues section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received substantive responses:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margin likely to prevail

History of the Orders

On December 30, 1992, the Department of Commerce ("the Department") published the antidumping duty orders on WSSP from Korea<sup>1</sup> and Taiwan.<sup>2</sup> In the amended final determination

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<sup>1</sup> See Antidumping Duty Order and Clarification: Certain Welded Stainless Steel Pipes from the Republic of Korea, 57 FR 62301 (December 30, 1992). On February 23, 1995, the Department published a notice amending the affirmative determination of sales at less than fair value (LTFV), pursuant to a ruling by the Court of International Trade (CIT). See Notice of Amended Final Determination and Antidumping Duty Order: Certain Welded Stainless Steel Pipe From the Republic of Korea, 60 FR 10064 (February 23, 1995) (Amended Final Determination and Order).

<sup>2</sup> See Amended Final Determination and Antidumping Duty Order: Certain Welded Stainless Steel Pipe From Taiwan, 57 FR 62300 (December 30, 1992), and Notice of Amended Final Determination and Antidumping Duty Order: Certain Welded Stainless Steel Pipes from Taiwan, 59 FR 6619 (February 11, 1994). In the original investigation, the Department excluded Chang Tieh Industry Co. from the order. In the final results of a changed circumstances review, the Department determined that Chang Mein is the successor firm to Chang Tieh Industry Co. and as such, is subject to exclusion from the order. See Certain Welded Stainless Steel Pipe From Taiwan: Final Results of Changed Circumstances Antidumping Duty Administrative Review, 63 FR 34147 (June 23, 1998).

of the antidumping duty order on Korea, the Department determined weighted-average margins of 2.67 percent for Pusan Steel Pipe Co., Ltd. (now SeAH Steel Corporation), 7.92 percent for Sammi Metal Products Co., Ltd., and 7.00 percent for “All Others.” See 60 FR 10064 (February 23, 1995).

In the Final Determination of Sales at Less Than Fair Value: Certain Welded Stainless Steel Pipes From Taiwan, the Department determined weighted-average margins of 3.51 percent for Ta Chen Stainless Steel Pipe Co., Ltd. (Ta Chen), zero for Chang Tieh Industry Co., Ltd. (CTI), 31.90 percent for Jaung Yuann Enterprise Co., Ltd., 31.90 percent for Yeun Chyang Industrial Co., Ltd., and 19.94 percent for “All Others,” 57 FR 53705 (November 12, 1992). CTI was excluded from the order. In the amended final determination and antidumping duty order, the margin rate for Ta Chen was adjusted to 3.27 percent and the “All Others” rate changed to 19.84 percent, while the margins for Jaung Yuann Enterprise Co., Ltd., and Yeun Chyang Industrial Co., Ltd. remained the same. See Amended Final Determination and Antidumping Duty Order: Certain Welded Stainless Steel Pipe From Taiwan, 57 FR 62300 (December 30, 1992). In 2000, the Department revoked the order with respect to Ta Chen. See Certain Welded Stainless Steel Pipe From Taiwan: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order In Part, 65 FR 39367 (June 26, 2000).

In the first five-year sunset review of these antidumping duty orders, the Department determined that revocation of these orders would likely lead to the continuation or recurrence of dumping at the margins established in the investigation. See Final Results of Expedited Sunset Reviews: Certain Welded Stainless Steel Pipes From the Republic of Korea and Taiwan 65 FR 5607 (February 4, 2000). On October 2, 2000, the International Trade Commission (“ITC”) determined, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), that revocation of the antidumping duty orders on WSSP from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>3</sup> Accordingly, the Department published a notice of the continuation of the antidumping duty orders, pursuant to section 351.218(f)(4) of the Department’s regulations.<sup>4</sup>

Since the publication of the continuation notice, the case histories are as follows:

Korea - On May 10, 2000, the Department published final results of an administrative review on WSSP from Korea. See Certain ASTM A-312 Stainless Steel Plate from the Republic of Korea;

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<sup>3</sup> See Certain Welded Stainless Steel Pipe from Korea and Taiwan, 65 FR 58806 (October 2, 2000), and USITC Publication 3351, Investigation Nos. 731-TA-540 and 541 (Review) (October 2000).

<sup>4</sup> See Continuation of Antidumping Duty Orders: Certain Welded Stainless Steel Pipe from South Korea and Taiwan, 65 FR 61143 (October 16, 2000).

Final Results of Antidumping Duty Administrative Review, 65 FR 30071 (May 10, 2000).<sup>5</sup>

Korea - On May 10, 2000, the Department published final results of an administrative review on WSSP from Korea. See Certain ASTM A-312 Stainless Steel Pipe from the Republic of Korea; Final Results of Antidumping Duty Administrative Review, 65 FR 30071 (May 10, 2000).<sup>6</sup>

In the final results of that review, the Department determined a dumping margin of 1.02 percent for SeAH Steel Corporation, Ltd.<sup>7</sup> The Department provided interested parties an opportunity to request an administrative review each year from 2000 through 2004.<sup>8</sup> However, no interested party requested a review.

Taiwan - On January 26, 2000, the Department initiated an administrative review of the December 1, 1998, to November 30, 1999, period, at the request of Ta Chen.<sup>9</sup> On April 27, 2000,

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<sup>5</sup> The Department published the preliminary results of the administrative review for the period December 1, 1997, through November 30, 1998, during the first sunset proceeding. See 64 FR 72645 (December 28, 1999). However, the sunset review was completed before the final results of the administrative review were issued. In a sunset review, the Department normally will not consider information from preliminary results of an administrative review unless the preliminary results are considered, by the Department, to be the final results. In this case, the preliminary results were not considered to be the final results. On May 10, 2000, the Department published the final results of the 1997-1998 administrative review. Therefore, we have considered information in the final results of the 1997-1998 administrative review in this proceeding.

<sup>6</sup> The Department published the preliminary results of the administrative review for the period December 1, 1997, through November 30, 1998, during the first sunset proceeding. See 64 FR 72645 (December 28, 1999). However, the sunset review was completed before the final results of the administrative review were issued. In a sunset review, the Department normally will not consider information from preliminary results of an administrative review unless the preliminary results are considered, by the Department, to be the final results. In this case, the preliminary results were not considered to be the final results. On May 10, 2000, the Department published the final results of the 1997-1998 administrative review. Therefore, we have considered information in the final results of the 1997-1998 administrative review in this proceeding.

<sup>7</sup> SeAH is the successor to Pusan Steel Pipe Co., Ltd. (PSP). For antidumping duty cash deposit purposes, SeAH is assigned the PSP antidumping deposit rate of 2.67 percent, PSP's investigation rate. See Certain Welded Stainless Steel Pipe from Korea; Final Results of Changed Circumstances Antidumping Duty Administrative Review, 63 FR 16979 (April 7, 1998).

<sup>8</sup> Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 65 FR 79802 (December 20, 2000); Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 66 FR 60183 (December 3, 2001); Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 67 FR 71533 (December 2, 2002); Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 68 FR 67401 (December 2, 2003); and Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 69 FR 69889 (December 1, 2004).

<sup>9</sup> Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews, 65 FR 4228 (January 26, 2000).

that review was rescinded because Ta Chen withdrew its request for review.<sup>10</sup> On June 26, 2000, the Department published a notice of final results of administrative review for the period December 1, 1997, through November 30, 1998, and determination to revoke the order in part with respect to Ta Chen.<sup>11</sup> Ta Chen met all the requirements for a company-specific revocation including three consecutive years of zero or de minimis margins on WSSP. Thus, the Department revoked the order with respect to Ta Chen.

The Department provided interested parties an opportunity to request an administrative review each year from 2000 through 2004. However, no administrative reviews were requested during this period – since the publication of the continuation notice of the five year sunset review.

### Background

On September 1, 2005, pursuant to section 751(c) of the Act, the Department initiated the second sunset reviews of the antidumping duty orders on WSSP from Korea and Taiwan.<sup>12</sup> On September 15, 2005, the Department received a notice of intent to participate in both sunset reviews on behalf of Bristol Metals, L.P. and Marcegaglia U.S.A., Inc. (collectively, “the domestic interested parties”), within the deadline specified in section 351.218(d)(1)(i) of the Department’s regulations. The domestic interested parties claimed interested party status under section 771(9)(C) of the Act as U.S. producers of the subject merchandise. The domestic interested parties were petitioners in the original investigations, or are successors to petitioners, and participated in subsequent reviews.

On September 29, 2005, we received a complete substantive response to the notice of initiation from the domestic interested parties within the specified time pursuant to section 351.218(d)(3)(i) of the Department’s regulations. We did not receive any responses from respondent interested parties to these proceedings. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department’s regulations, the Department conducted expedited sunset reviews of these antidumping duty orders.<sup>13</sup>

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<sup>10</sup> Certain Welded Stainless Steel Pipe From Taiwan: Rescission of Antidumping Duty Administrative Review, 65 FR 24680 (April 27, 2000).

<sup>11</sup> Certain Welded Stainless Steel Pipe From Taiwan: Final Results of Antidumping Duty Administrative Review and Determination To Revoke Order In Part, 65 FR 39367 (June 26, 2000).

<sup>12</sup> See Initiation of Five-year (“Sunset”) Reviews, 70 FR 52074 (September 1, 2005).

<sup>13</sup> Pursuant to section 351.218(e)(1)(ii)(C)(1) of the Department’s regulations, the Department notified the ITC that respondent interested parties provided inadequate response to the Notice of Initiation of the antidumping duty orders on WSSP from Korea and Taiwan. See October 21, 2005, letter to Robert Carpenter, Director of Investigations, International Trade Commission, from Maria MacKay, Acting Director, Office 6, AD/CVD Operations.

## Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department has conducted these sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department will consider both the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. In addition, section 752(c)(3) of the Act provides that the Department will provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Below we address the comments of the interested parties.

### 1. Likelihood of Continuation or Recurrence of Dumping

#### Interested Party Comments

The domestic interested parties argue that revocation of the antidumping duty orders on WSSP from Korea and Taiwan would lead to continued dumping at margins equivalent to, or greater than those determined in the original investigation. See Substantive Response of domestic interested parties, September 29, 2005, at 3-6.

Korea - In support of their argument, the domestic interested parties provided import volumes for the period before and the period after the issuance of the order, in addition to import volumes covering 2000 through 2004, although no sources were cited. The domestic interested parties note that import volumes in 1989, 1990 and 1991 were 444 short tons, 3,328 short tons, and 5,074 short tons, respectively, and they note that import volumes in 1992 were not available. Following the imposition of the order, domestic interested parties argue that import volumes decreased to 10 short tons and 22 short tons in 1993 and 1994, respectively. For 2000 through 2004, domestic interested parties state, imports continued at low levels: 828 short tons in 2000, 1,146 short tons in 2001, 696 short tons in 2002, 1,153 short tons in 2003, and 2,194 short tons in 2004. The domestic interested parties conclude that the imposition of the order has affected the level of shipments of WSSP from Korea.

With respect to weighted-average margins, the domestic interested parties note the margins established in the amended final determination and antidumping duty order that identify deposit rates for companies and all other producers and exporters of the subject merchandise. The domestic interested parties further note that the margins determined in the final results of the first sunset review are the same margins from the original investigation, as amended. Further, on May 10, 2000, in the final results of an administrative review (65 FR 30071) the Department determined a 1.02 margin rate for SeAH Steel Corporation. According to domestic interested parties, the duties assessed on WSSP from Korea continue to protect the U.S. industry from dumped products. Therefore, they argue that the order should not be revoked.

Taiwan - In response to import volumes, the domestic interested parties argue that since the imposition of the order, import levels have decreased. Although, the domestic interested parties provided import statistics in support of their argument, no cite to sources was provided.

In their substantive response, domestic interested parties note pre-order import volume for 1989, 1990, and 1991 as 3,095 short tons, 7,979 short tons, and 9,197 short tons, respectively. In 1992, 1993, and 1994, import volumes were 37 short tons, 186 short tons, and 85 short tons, respectively. Further, the domestic interested parties argue that Taiwanese producers could not maintain pre-order volumes with the order in place. Domestic interested parties state that in 2000, import volumes were 3,979 short tons, 3,484 short tons in 2001, 2,628 short tons in 2002, 3,132 short tons in 2003, and 2,968 short tons in 2004. The domestic interested parties argue that the significant decrease in import volumes to the United States indicate a strong likelihood of dumping should the antidumping duty order be revoked. Therefore, domestic interested parties contend the order on WSSP from Taiwan should not be revoked.

With respect to weighted-average dumping margins, the domestic interested parties point to the margins established in the amended final determination and antidumping duty order which identify deposit rates as noted in the history of this order. The domestic interested parties further note that the margins determined in the final results of the first sunset review, are those determined in the original investigation, as amended. The domestic interested parties believe that the antidumping duties assessed on WSSP from Taiwan continue to protect the U.S. industry from dumped products. Therefore, they argue that the antidumping duty order should not be revoked.

#### Department's Position

The Department's sunset review determination of likelihood will be made on an order-wide basis consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the Statement of Administrative Action ("SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) ("House Report"), and the Senate Report, S. Rep. No. 103-412 (1994).<sup>14</sup> The Department normally will determine that revocation of an order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise declined significantly.<sup>15</sup> In addition, the Department considers the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order.<sup>16</sup>

Korea - The Department compared import volumes of WSSP from Korea for the period before and the period after the imposition of the antidumping duty order, including import volumes covering the period 2000 through 2004 (the period covered by this proceeding) to determine if revocation of the orders would likely result in the continuation or recurrence of dumping margins. Using information from ITC's trade statistics we found that import volumes declined following the

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<sup>14</sup> See SAA at 879 and House Report at 56.

<sup>15</sup> See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52.

<sup>16</sup> See Sections 752(c)(1)(A) and (B) of the Act.

imposition of this order.<sup>17</sup> Pre-order import volumes increased dramatically from 444 short tons in 1989 to 3,328 short tons in 1990 and further increased to 5,074 short tons in 1991. After the imposition of the order, this upward trend reversed as import volumes declined significantly to 1,385 short tons in 1992. Between 1993 and 1995, import volumes remained stable at a very low level that ranged from 1,238 to 1,161 short tons. Import volumes continued to be low in the period of this review: 828 short tons, 1,146 short tons, 696 short tons, 1,153 short tons and 2,194 short tons in 2000, 2001, 2002, 2003, and 2004, respectively. Since the imposition of this order, import volumes of WSSP from Korea have decreased from the pre-order levels and have remained generally lower than pre-order levels.

With respect to the existence of dumping margins, the record of this order shows that dumping margins above de minimis levels continue to exist. Deposit rates continue between 1.02 percent and 7.92 percent for Korean producers and exporters of WSSP.<sup>18</sup>

Taiwan - The Department compared import volumes of WSSP from Taiwan for the period before and the period after the imposition of the antidumping duty order, including import volumes covering the period 2000 through 2004 (the period covered by this proceeding) to determine if revocation of the orders would likely result in the continuation or recurrence of dumping margins. Using information from ITC's trade statistics we found that import volumes declined following the imposition of this order.<sup>19</sup> Pre-order import volumes increased dramatically from 3,095 short tons in 1989 to 7,979 in 1990, and further increased to 9,197 short tons in 1991. After the imposition of the order, this upward trend reversed as import volumes declined significantly to 3,825 short tons in 1992. Import volumes then remained stable at low levels that ranged from 3,825 short tons in 1993 to 5,069 short tons to 5,323 short tons in 1994. Import volumes continued to be low in the period of this review: 3,979 short tons, 3,484 short tons, 2,628 short tons, 3,132 short tons and 2,968 short tons, for 2000, 2001, 2002, 2003, and 2004, respectively.<sup>20</sup> Since the first sunset review, import volumes of WSSP have decreased from pre-order levels and have remained generally lower than pre-order levels.

With respect to the existence of dumping margins, the record of this order, in addition to the domestic interested parties information provided, shows that dumping margins above de minimis levels continue to exist. Deposit rates between 19.84 and 31.90 percent continue for producers and exporters of WSSP from Taiwan.

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<sup>17</sup> See USITC Publication 2585 (Final) at I-32 (Dec. 1992), USITC Interactive Tariff and Trade Data Web for 2000-2004, and U.S. Department of Commerce trade statistics.

<sup>18</sup> See Amended Final Determination and Order.

<sup>19</sup> See USITC Publication 2585 (Final) at I-32 (Dec. 1992).

<sup>20</sup> USITC Interactive Tariff and Trade Data Web for 2000-2004.

The SAA states that the continued existence of dumping margins after the issuance of the order may provide a strong indication that, absent an order, dumping would be likely to continue. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue or recur if the discipline were removed.<sup>21</sup>

Since the imposition of these orders, import volumes have declined from pre-order volumes. In addition, dumping margins above de minimis continue to exist for shipments of WSSP from Korea and Taiwan to the United States. Based on this analysis, the Department determines that revocation of the antidumping duty orders on WSSP from Korea and Taiwan is likely to lead to continuation or recurrence of dumping.

## 2. Magnitude of the Margin Likely to Prevail

### Interested Party Comments

The domestic interested parties suggest that the Department report to the ITC the margins established in the investigation. These are the same margins determined in the final results of the first sunset review. See Substantive Response of domestic interested parties, dated September 29, 2005, at 6-7.

### Department's Position

Section 752 (c)(3) of the Act provides that the Department will report to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked. The Department normally will select a margin from the final determination of the original investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. See SAA at 890, and the House Report at 64. For companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide margins based on the “All Others” rate from the investigation.

Korea - The Department agrees with the domestic interested parties concerning the dumping margins to report to the ITC. In the original investigation, the Department established company-specific and “All Others” margin rates that ranged from 2.67 to 7.92 percent. In the final results of the first sunset review the Department determined that the margins calculated in the original investigation are probative of the behavior of producers and exporters of the subject merchandise without the discipline of the order in place. Since the completion of the first sunset review, deposit rates continue for producers and exporters of the subject merchandise from Korea. Based on information on the record and information provided by the domestic interested parties, the Department finds that the margins from the original investigation are probative of the behavior of Korean producers and exporters were the order to be revoked. Consistent with section 752(c) of the Act, the Department will report to the ITC company-specific and “All Others” rates from the investigations as indicated in the “Final Results of Review” section of this memorandum.

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<sup>21</sup> See SAA at 890, and the House Report at 63-64.



Taiwan - The Department agrees with the domestic interested parties concerning the dumping margins to report to the ITC. In the original investigation, the Department established company-specific and “All Others” margin rates. In the final results of the first sunset review the Department determined that the margins calculated in the original investigation are probative of the behavior of producers and exporters of the subject merchandise without the discipline of the order in place. Even though the order was revoked in part with respect to Ta Chen, there are other companies with cash deposits under the order. Since the completion of the first sunset review, deposit rates continue for producers and exporters of the subject merchandise from Taiwan. Based on information on the record and information provided by the domestic interested parties, the Department finds that the margins from the original investigation are probative of the behavior of Taiwanese producers and exporters were the order to be revoked. Consistent with section 752(c) of the Act, the Department will report to the ITC company-specific and “All Others” rates from the investigations as indicated in the “Final Results of Review” section of this memorandum.

#### Final Results of Review

As a result of these reviews, the Department determines that revocation of the antidumping duty orders on WSSP Korea and Taiwan would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producer's	Weighted-Average Margin (percent)
<u>Korea</u>	
Pusan Steel Pipe Co., Ltd. (now SeAH Steel Corp.)	2.67
Sammi Metal Products Co., Ltd	7.92
All Others	7.00
<u>Taiwan</u>	
Jaung Yuann Enterprise Co., Ltd	31.90
Yeun Chyang Industrial Co., Ltd.	31.90
All Others	19.84

Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of this sunset review in the Federal Register.

AGREE \_\_\_\_\_

DISAGREE \_\_\_\_\_

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Stephen J. Claeys  
Acting Assistant Secretary  
for Import Administration

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(Date)